LICENSE AGREEMENT FOR CONQA SOFTWARE

IMPORTANT – READ CAREFULLY: This Agreement is a legal agreement between **the USER** and **QA Tech Limited - Trading as Conqa ("CONQA")** a duly incorporated company in New Zealand. At the commencement of the use of the Software the USER agrees that they accept and will be bound by the terms and conditions of this Agreement and that this Agreement shall remain in effect until terminated. **IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS, DO NOT DOWNLOAD, INSTALL, OR USE ANY CONQA SOFTWARE**.

1. SOFTWARE LICENSE AGREEMENT
This Agreement sets forth the terms and conditions under which CONQA licenses the USER to use the Conqa QA Software and databases storing data generated by the software platform("Software"), including any Enhancements and Updates to which the USER is entitled (as defined in paragraph 5(c) of this Agreement) and the supporting documentation supplied with the Software ("Documentation").

2. DEFINITIONS
"Date of Supply" – means the date that USER first downloads the Software.

3. LICENSE
(a) Subject to the terms and conditions hereof, and in consideration of the timely payment of the License Fees CONQA grants to the USER a limited, personal, non-transferable and non-exclusive license to use and display the Software, use the Documentation and provide access to use the Software (under the terms of this Agreement) to its employees, agents and contractors for the USER's internal business uses for the Term.
(b) The USER shall not make the Software available to and agrees not to permit any other person or entity to use the Software on a timesharing, sublicensed or other basis.
(c) License Fee - A Monthly License Fee ("MLF") is payable monthly in advance based on the number of admissions processed by the USER using the Software. This is a variable fee as detailed in all pricing pages relating to the Software.
- (i) The MLF will be charged to their credit card at the begining of each calendar month.
- (ii) Payment of the MLF must be made at the begining of each month for that months usage.
- (iii) The USER agrees that failure to make payment of the MLF on the due date will cause the Software to cease functioning from the beginning of the next month.

(d) Access conditions – access to the Software and CONQA issues system ("Services") are subject to the following conditions:
- (i) USER must ensure that all usernames and passwords required to access the Services are kept secure and confidential. Any unauthorised use or breach of security must immediately upon it coming to USER's notice be advised to CONQA. CONQA can then take all steps and actions it reasonably deems necessary to maintain the security of the Services and USER's access to them.
- (ii) USER must not attempt to undermine the security or integrity of CONQA's, or any third party systems/networks hosting the Services, computing systems/networks.
- (iv) USER must not do any thing in making use of the Services that may impair the functionality of the Services or systems used to deliver the Services.
- (v) USER must not attempt to gain access to materials other than those to which USER has been gven express permission to access within the Services or on the systems on which the Services are hosted.
- (vi) USER must not transmit or input to the Services any content or files that may be offensive, in violation of any law, in breach of copyright or trade secret, or which may damage any other computing devices or software.

4. CONQA's RIGHTS
CONQA represents and warrants that it has all rights necessary in order to grant the license rights in the Software and the Documentation granted to USER hereunder. CONQA is acting as a principal and not as an agent for any affiliated or related entity of CONQA in granting this license.

5. SUPPORT AND MAINTENANCE
(a) CONQA shall provide the USER with the support and maintenance for the Software as described in this Paragraph 5, during the Term of the Agreement.
(b) **Assistance**: CONQA shall provide the USER with access to the CONQA issues system (internet based access) to log issues and faults with the Software. CONQA will attend to these logged issues on a prioritised basis during CONQA's normal business hours Mondays to Fridays (excluding public holidays).
(c) **Enhancements**: CONQA shall from time to time make available amended versions, releases and other generally available modifications (collectively, "Enhancements") to the Software and these will be released and the version used by the USER will be updated to the latest version/release.
(d) **Error Correction**:
- (i) CONQA will use reasonable endeavours to correct Software faults through updates, modification and bug fixes (collectively, "Updates") to the Software. Software faults shall be defined as a function(s) of an item of the Software not operating in accordance with the Warranties in Paragraph 8 of this Agreement.
- (ii) CONQA shall only be required to correct Software faults:
  - a. which are not attributable to malfunction of equipment or software other than the software supplied by CONQA;
  - b. which are not attributable to incorrect use of the Software by the USER;
  - c. which are not attributable to attempts by the USER to correct Software faults without prior consultation with CONQA; and
  - d. which, when requested by Conqa, are reported in writing by the USER to CONQA with full information and fully documented examples of the reported faults.
- (iii) CONQA will at its own option either advise the USER as to the correction or avoidance of the Software faults, or make available to the USER appropriate Updates or Enhancements in a timely manner.

(e) **General Obligations**:
- (i) The USER shall provide CONQA with access to all necessary information facilities of the USER as reasonably required for the performance of CONQA's obligations under this Agreement. The access required at a minimum is, access to the USER Location via the internet.
- (ii) CONQA warrants that it will use reasonable endeavours to perform its obligations hereunder.
- (iii) All Updates and Enhancements delivered to USER shall be deemed a part of the Software licensed to USER pursuant to this Agreement.
- (iv) The License Fees payable hereunder do not include any amount payable for attendance at the USER's premises or the provision of new Software amendments other than Enhancements or Updates pursuant Paragraphs 5(c) and 5(d) of this Agreement, and CONQA shall have no responsibility for Software faults or any obligations to provide error correction, maintenance enhancements or support services except in accordance with this Agreement. Any such services which may be requested by the USER in writing and provided by CONQA (including services in connection with a report by the USER of a claimed Software fault which is not a Software fault or which does not qualify for the correction in accordance with this Agreement (including this Exhibit)) shall be chargeable to the USER at CONQA's rate established at the time such services are given, together with all expenses incurred by CONQA in providing such services, and shall be provided on CONQA's general conditions for the provision of computing services current from time to time

6. USER'S WARRANTY
The USER warrants that it has not relied on any representation made by CONQA, or any other party on behalf of CONQA, which has not been stated expressly in this Agreement.

7. CONSUMER GUARANTEES ACT 1993
The USER acknowledges that the Software and Documentation are acquired for the purposes of a business, and the parties agree that the conditions, warranties and guarantees set out in the Consumer Guarantees Act 1993 will not apply and are excluded from this Agreement.

8. CONQA'S WARRANTIES

(a) CONQA warrants to the USER that the Software will perform in substantial conformance with the applicable User Manual for the Software.

(b) CONQA warrants to the USER that the Software does not and will not infringe any copyright or trade secret of any third party arising under law. CONQA'S sole obligations in the event of breach of the warranty set forth in this Paragraph 8(b) are those specified in this paragraph. CONQA hereby indemnifies and holds harmless the USER from costs, expenses, losses, damages, judgments (including reasonable attorneys and accounting fees) arising out of any breach or alleged breach of the warranty in this Paragraph 8(b) to the limit of the liability established in Paragraph 9; PROVIDED THAT the USER has notified CONQA in writing as soon as practicable of any such infringement, suspected infringement or alleged infringement and cooperates with CONQA in the defense of such claim. CONQA shall have the right to control the defense or settlement of any such claim. If in CONQA's determination the USER's use of the Software is or is likely to be enjoined by any action or proceeding, CONQA shall have the right, at its expense, to:

(i) obtain the right for USER to continue to use the Software as contemplated hereunder; and/or
(ii) modify the Software to avoid any infringement/violation of the rights of third parties as set forth in the first sentence of this Paragraph 8(b);
(iii) create/procure for the USER the right to use a substitute for such portions of the Software that avoid any such actual or alleged infringement/violation; and/or

Upon CONQA's making any such remedy(ies) available to the USER, such remedy(ies) shall be in lieu of CONQA's indemnity obligation set forth in the third sentence of this Paragraph 8(b). Notwithstanding and without limiting the foregoing provisions of this Paragraph 8(b), CONQA shall not be obligated to indemnify the USER to the extent such infringement, suspected infringement or alleged infringement arises from:

(iv) use of the Software in a combination by any means and in any form with computer Software and/or systems, including, but not limited to hardware, not specifically approved or recommended by CONQA, if such claim would not have occurred but for such combination;
(v) use of the Software for a purpose not authorised by CONQA or under this Agreement; or
(vi) modification/alteration of the Software without prior consent in writing of CONQA, if such claim would not have occurred but for such modification/alteration.

(c) Except for the express warranties made in this Agreement or any other agreement made in writing between the parties, CONQA MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOFTWARE OR SUPPORT AND MAINTENANCE AND ANY WARRANTIES OTHERWISE IMPLIED BY THE COMMON LAW OR STATUTE OR ARISING OUT OF CUSTOM OR COURSE OF DEALING OR USAGE OF OR IN THE TRADE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE EXCLUDED FROM THIS AGREEMENT TO THE FULLEST EXTENT PERMITTED BY LAW. WITHOUT LIMITING THE FOREGOING, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, CONQA DOES NOT REPRESENT, WARRANT OR COVENANT THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL MEET ANY REQUIREMENTS OR NEEDS OF USER, OR THAT THE SOFTWARE WILL OPERATE ERROR FREE, OR IN AN UNINTERRUPTED FASHION, OR THAT ANY DEFECTS OR ERRORS IN THE SOFTWARE WILL BE CORRECTED, OR THAT THE SOFTWARE IS COMPATIBLE WITH ANY PARTICULAR PLATFORM.

9. LIMITATION OF LIABILITY

The USER agrees that CONQA's cumulative liability for damages under or in connection with this Agreement, regardless of the form of action, is limited to the License Fees paid in the 6 months preceeding the warranty/claim event. IN NO EVENT SHALL CONQA BE LIABLE (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY ACTION FOR NEGLIGENCE) FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOSS OF DATA OR RECORDS, LOST PROFITS OR OTHER ECONOMIC LOSS) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND/OR ANY OBLIGATION OF CONFIDENTIALITY, EVEN IF CONQA HAD BEEN ADVISED OF THE POSSIBILITY OF, OR COULD HAVE FORESEEN, SUCH DAMAGES OR LOSSES. The USER acknowledges and agrees that the amount of the License Fee payable under this Agreement is related to the foregoing limitations on CONQA's liability and that the License Fee would be greater if CONQA's liability were not so limited.

10. INTELLECTUAL PROPERTY

(a) As between the parties, all copyrights and all other intellectual property rights in or related to the Software, Documentation and the services provided by or on behalf of CONQA shall remain at all times the property of CONQA and its licensors and the USER shall acquire no rights in any of the foregoing except as expressly provided in this Agreement. The USER agrees that it will not, and will not permit others to, use, copy, reproduce, display, deploy, perform, distribute, transmit, make available, create derivative works of the Software or Documentation or, except only to the extent expressly permitted at law, to decompile or reverse engineer any of the Software or other software code provided by or on behalf of CONQA.

(b) Title to, and all intellectual property rights in, the data stored by the Software remains with the USER. However access to the online storage of the data is contingent on having a current license and all MLF's and other fees being paid in full and on time.

11. SECURITY AND CONFIDENTIALITY

(a) The USER will be solely responsible for the use, supervision, management and control of the Software and Documentation. The USER will ensure that the Sofware is protected at all times from access, use or misuse, damage or destruction by any person not authorised by CONQA for that purpose.

(b) USER must maintain copies of all data input to the Software. CONQA maintains procedures to prevent data loss, including back-up regimes, but makes no guarantee that there will be no loss of data.

(c) USER acknowledges that if it enables third party applications for use in conjunction with the Services that CONQA may allow the providers of those third party applications access to USER's data as required for use of the third party applications. CONQA shall not be responsible for any disclosure, modification or deletion of USER's data resulting from such use and/or access by a third party application provider.

14. TAXES

(a) If the USER is required by law to make any deduction or withholding from any amount paid or payable by the USER under this Agreement or CONQA is required by law to make any payment on account of tax (other than tax on the overall net income of CONQA) or otherwise, on or in relation to any amount received or receivable by it under this Agreement then the amount payable by the USER in respect of which such deduction, withholding or payment is required to be made shall be increased to the extent necessary to ensure that, after the making of such deduction, withholding or payment, CONQA receives and retains (free from any liability in respect of any such deduction, withholding or payment) a net amount equal to the amount which CONQA would have received and so retained had no such deduction, withholding or payment been made; and

(b) GST: The Licence Fees do not include New Zealand goods and services tax ("GST") chargeable in accordance with the Goods & Services Tax Act 1985 ("Act"). In addition to the Licence Fees, the Customer shall pay to CONQA the amount of all New Zealand GST chargeable (if any) on any taxable supply by CONQA under this Agreement. Any amount payable by the Customer under this clause shall be payable on the date on which the relevant supply is deemed to take place under the Act.

13. TERM AND TERMINATION

(a) Term - This Agreement shall become effective on the Date of Supply of the Software and shall remain in effect unless and until terminated pursuant to the terms hereof.

(b) Termination

(i) Failure to pay the MLF on the due date will result in termination of the USER's rights to use the Software.
    a. Provided that payment is made within 30 days of the due date the USER can have its right to use the Software reinstated under the terms of this Agreement.
    b. If payment is not made within 30 days of the due date this Agreement is terminated.
(ii) CONQA, in addition to all other rights and remedies it may have hereunder or at law or equity, shall have the right to terminate this Agreement and all license rights granted to the USER hereunder by notice in writing to the USER if:
    a. The USER breaches any material term of this Agreement; or
    b. The USER becomes insolvent or bankrupt, or enters into liquidation or receivership or any analogous administration under the law of any jurisdiction, whether compulsory or voluntary; or
    c. The USER is acquired by, merges with or becomes controlled by or affiliated with a competitor of CONQA.
(iii) The USER may terminate this Agreement and its right to use the Software, with or without cause, at any time with 30 days prior written notice to CONQA.

(iv) Immediately upon any termination of the USER's rights to use the Software, the USER shall discontinue use of Software, return all copies of the Software and Documentation and delete all copies of the Software from the USER's computers and CPUs and certify to CONQA that is has done so. Paragraphs 4, 6, 8, 9, 10, 11, 12, 14 and 15 of this Agreement shall survive any termination hereof.

15. DISPUTES

(a) The parties undertake to use all reasonable efforts in good faith to resolve any dispute which arises between them in connection with this Agreement. This provides for a form of alternative dispute resolution and is not a reference to arbitration.
(b) A party will, as soon as reasonably practicable, give the other party notice of any dispute in connection with this Agreement.
(c) Any dispute will be referred initially to a designated representative of CONQA and the designated representative of the USER, who will endeavour to resolve the dispute within 10 days of the giving of the notice; and if the dispute is not resolved within the 10 days, to the Chief Executive of the USER and the Managing Director of CONQA who will endeavour to resolve the dispute within a further 10 days;
(d) If, following the dispute resolution procedures set out in (a) to (c) above, the parties fail to resolve the dispute then the parties will try to settle their dispute by mediation before resorting to litigation. Either party may initiate mediation by giving written notice to the other party. The mediator shall be agreed by the parties but if the parties cannot agree on one within 5 days after the mediation has been initiated, then the mediator shall be selected by the President of LEADR Inc. (Lawyers Engaged in Alternative Dispute Resolution) or its successor;
(f) No formal proceedings for the judicial resolution of any Dispute between the parties may be commenced until a dispute has proceeded through the dispute resolution processes set out in (a) to (d) above; PROVIDED THAT, with respect to any claim by CONQA of actual or alleged infringement of any confidentiality or intellectual property right of, or licensed to, CONQA, in its sole discretion, may at any time seek judicial resolution with or without resorting to the dispute resolution and mediation processes set out in (a) to (d) above; and
(g) All dispute resolution procedures shall be held in Auckland, New Zealand, unless otherwise agreed in writing.

16. GENERAL

(a) No waiver of any breach of any provisions of this Agreement shall constitute a waiver of a prior, concurrent or subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.
(b) CONQA intends that the Services will be available to the fullest extent possible. There will be occasions that the Services may be unavailable to allow for maintenance or development activities to take place. CONQA will endeavor ro publish in advance to USER when such activity will take place when CONQA considers that the non-availiablity will be longer than normally expected.
(b) This Agreement contains the entire agreement between CONQA and USER with respect to the subject matter hereof, including, but not limited to, the licensing of the Software and provision of the support and maintenance specified in Paragraph 5.
(c) This Agreement shall be interpreted without reference to its headings (which are included for convenience only).
(d) This Agreement shall be governed by New Zealand law and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this Agreement.
(e) This Agreement does not make either party the employee, agent or legal representative of the other for any purpose whatsoever. Neither party is granted any right or authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the other party. Each party is acting as an independent contractor.
(f) Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.
(g) The USER must not assign, transfer or grant a security interest in its rights under this Agreement except if approved in writing by CONQA.
(h) All notices shall be in writing and delivered personally (including by recognised overnight courier) or properly mailed, registered first class mail, postage prepaid to the parties set forth at the beginning of this Agreement.
(i) Because of the unique and trade secret nature of CONQA's confidential information, Conqa's intellectual property rights and the valuable proprietary interest of CONQA in the same, it is understood and agreed by the parties that CONQA's remedies at law may be inadequate and that CONQA shall be entitled to apply for and obtain injunctive and other equitable relief, in addition to all remedies available to it at law, in equity or hereunder without the necessity of the posting of a bond, in any court of competent jurisdiction to restrain the breach or threatened breach of, or otherwise to specifically enforce, any of the terms of this Agreement.